

IN THE MATTER OF : BEFORE THE  
  
ST. LOUIS ROMAN CATHOLIC : HOWARD COUNTY  
CONGREGATION, INC. :  
  
Petitioner : BOARD OF APPEALS  
  
: HEARING EXAMINER  
  
: BA Case No. 12-006C

.....

**DECISION AND ORDER**

On June 4, 2012, the undersigned, serving as the Howard County Board of Appeals Hearing Examiner, and in accordance with the Hearing Examiner Rules of Procedure, heard the petition of St. Louis Roman Catholic Church, Inc. to enlarge a Conditional Use site of an existing religious facility and private school, for a building addition containing a gymnasium and offices, a potentially enlarged parking area and playfields/play areas in an RR-DEO (Rural Residential: Density Exchange Option) Zoning District, pursuant to Sections 131.N.40 and 48 of the Howard County Zoning Regulations (Zoning Regulations).

The Petitioner certified to compliance with the notice, advertising, and posting requirements of the Howard County Code. I viewed the subject property as required by the Hearing Examiner Rules of Procedure.

William Erskine, Esquire, represented the Petitioner. Patrick Marlatt, Albert Rubeling, Albert Edwards and Mark Healey testified in support of the petition. No one appeared in opposition to the petition.

### Preliminary Matters

Petitioner introduced into evidence Petitioner's Exhibit 4, an amended Conditional Use Plan (the Amended Plan) which specifies the location and area of the proposed access to Parcel J through Parcel G. Because the amendments are intended to respond to comments in the Technical Staff Report, the Hearing Examiner concluded the amendments are mitigative, not substantive, and could be admitted into evidence pursuant to Hearing Examiner Rules 9.4 and 9.5.<sup>1</sup> All references to the Conditional Use Plan in this Decision and Order refer to the Amended Plan. Exhibit 7 is an illustrative representation of the Amended Plan.

Additionally, portions of the proposed structures and uses will be constructed on adjoining Parcels 29 and 30, which are zoned POR (Planned Office Research). These proposed structures and uses are permitted as a matter of right in this district. Consequently, the Hearing Examiner's discussion of the structures and uses proposed on these parcels are for reference only.

-----

The Petitioner introduced into evidence the exhibits as follows.

1. Video of campus and proposed enlargement

---

<sup>1</sup> Rule 9.4. Amendments to Petition. If a petitioner proposes to amend a petition during the course of the proceedings, the petitioner must submit the amendment as an exhibit.

Rule 9.5. Substantive Amendments. If the hearing examiner determines that an amendment to a petition is substantive, i.e., the amendment proposes a use that is likely to adversely impact vicinal properties, then the hearing examiner will suspend the hearing for at least three (3) weeks. At least two (2) weeks prior to the rescheduled hearing, the petitioner must send written notice of the amendment and of the date, time, and place of the next hearing to all adjoining property owners, and must file an affidavit of written notification with the clerk. In addition, the petitioner must post the property with notice of the date, time, and place of the next hearing for at least 10 days immediately before the next hearing in accordance with §2.203(b) of the Board's Rules. The hearing examiner may request that DPZ review and make recommendations on the amendment.

2. Rendering of Proposed Gymnasium
3. Site Plan depicting structures (except playground structure)
4. Amended Conditional Use Plan, June 4, 2012
5. Sight distance analysis
6. Conditional Use Plan approved in BA Case No. 01-031 with proposed changes
7. Illustrative Amended Plan, May 2012
8. Aerial view with lot lines

### **FINDINGS OF FACT**

Based upon the preponderance of evidence presented at the hearing, the Hearing Examiner finds the following facts:

1. Property Identification. The subject properties for the overall enlargement are located in the 5<sup>th</sup> Election District on the west side of MD 108 (Clarksville Pike) about 350 feet south of Ten Oaks and also on the south side of Ten Oaks Road about 430 feet west of MD 108. The Properties are referenced as Tax Map 34, Grid 11, Parcels 77, J and part of Parcel G, and Tax Map 34, grid 12, Parcels 29, 30 and 196 and are also known as 12500 MD 108. The Conditional Use Site comprises Parcels 196, G and J (the Site).

2. Property Description. The 18.91-acre Site is irregularly shaped. The current significant improvements on the Site are located on Parcel 196, which lies on the west side of MD 108. Near the south lot line is the priests' residence with a side-loading garage and driveway access to MD 108. The area to the north is in lawn. To the northwest is a wooded stream area. A paved walkway extends from the residence through the lawn to connect to the southeast corner of the parking lot for the religious facility.

The L-shaped parking lot has a narrow parking area in its southeast portion and a significantly wide parking area to the west and northwest. The westernmost section of the parking lot runs generally parallel to Parcels G and J. This parking lot has a secondary function as a play area. At the southwest corner of the parking lot is a multi-bay maintenance building and shed. To the shed's west, on adjoining Parcel G is a stormwater management facility.

The main access to the parking lot is a wide, divided ingress/egress driveway on MD 108, at its intersection with Guilford Road. There are three secondary access driveways. The first lies about 400 feet north of the main access. The second accesses Ten Oaks Road and runs through Parcel 29. The third driveway also accesses Ten Oaks Road and runs along Parcel 30's easterly lot line.

The major Site improvements are concentrated to the northeast of the parking lot. From south to north are a one-story parish office building (the former main sanctuary, a church designated as Key historic building HO-277 on the county historic site listing), the present sanctuary and the school building and gymnasium. To the parking lot's north is a large playground equipment structure never approved through the conditional use process. According to the Technical Staff Report (TSR), this structure does not appear to comply with the 30-foot setback (although it would if the property line was an internal property line).

Parcel J to the west of the parking lot is an unimproved lawn area used occasionally for overflow parking on Easter Sunday and Christmas. Current vehicle access to this overflow parking use is through a northeast portion of Parcel G. Parcel J is also used as an athletic field.

The POR-zoned Parcels 29 and 30 are open lawn and some large trees. The Site slopes gently to the southwest and to the stream from the high point in the northeast corner.

3. Vicinal Properties. To the north of Parcel 196, the POR Parcels 32 and 34 front on Ten Oaks Road. Parcel 32 is improved with a one-story commercial building and Parcel 34, with two buildings in commercial use. At the southwest corner of the Ten Oaks intersection with MD 108, the B-2 (Business: General) Parcel A of Parcel 93 is the site of a bank. To the east, across MD 108, and north of Guilford Road, are B-2 zoned properties in various retail and service use. Directly across from the church is the B-1 (Business: Limited), one-story Clarksville Plaza retail center. South of Guilford Road is an RR-DEO zoned farm. To Parcel 196's south is the RR-DEO zoned Parcel 45, the proposed site of a funeral home conditional use being considered by the Board of Appeals. Further south is Parcel 47, the site of a religious facility. To the west is the Parcel 77, the Preserve of Clarksville subdivision, which also created Parcels J and G. To the west of Parcels J and G is Parcel D, a non-buildable preservation parcel owned by the Howard County Department of Parks and Recreation.

4. Roads. MD 108 has two travel lanes, a center turn lane, and a dedicated right turn lane onto Guilford Road for northbound traffic. There is a variable paving width within a proposed 80-foot right-of-way (ROW). The posted speed limit is 35 MPH. Ten Oaks Road has two travel lanes and a left turn lane onto MD 108 for eastbound traffic. There is a variable paving width within a proposed 80-foot ROW. The posted speed limit is 40 MPH. The access driveways approved in previous plans will continue to serve the Site. According to State Highway Administration (SHA) data, the traffic volume on MD 108 south of Ten Oaks Road was

16,841 average daily trips (ADT) as of 2010. The traffic volume on Ten Oaks Road west of MD 108 was 10,748 ADT as of March 2009.

5. Water and Sewer Service. Parcel G and J are in the No Planned Service Area. The remainder of the Site is served by public water and sewer.

6. The General Plan. Policies Map 2000-2020 of the 2000 General Plan designates the Property as a "Rural Residential" land use. Clarksville is designated a Village and Community Center. Transportation Map 2000-2020 of the 2000 General Plan depicts MD 108 south of MD 32 as a Major Collector and Ten Oaks Road as a Major Collector.

7. Zoning History. The substantial zoning history relating to the religious facility and private school dates back to 1978 and is ably covered in the TSR. Most recently, Petitioner was granted a conditional use to enlarge the existing religious facility and private school in three phases (Board of Appeals Case No. 04-011C, granted August 2, 2004). This decision became void pursuant to Zoning Regulations Section 130.I.3.a because Petitioner failed to obtain a building permit conforming to the phased plans for which the approval was granted within the requisite times.

8. The Conditional Use Proposal. The Petitioner is proposing to enlarge the private academic school, the parking lot, and the religious facility (the church).

A. The private academic school. The principal improvement proposed is a building addition to be located on the west side of the existing gymnasium. This building would house a new gymnasium and administrative office space. A portion of the addition would be located on Parcel 30. According to Notes 8 and 9 on the Amended Plan, the total floor area of the addition

is 19,118-square feet. The area of the addition on the RR-zoned portion of the Site is 15,687-square feet, with 3,431 square feet to be located on the POR-zoned portion.

B. The religious facility. Petitioner is also proposing to use the new gymnasium twice yearly for special religious services on Easter and Christmas, as well as for other uses accessory to the religious facility.

C. Parking. The Supplement to the Conditional Use Petition states that the current religious facility use required and established 362 parking spaces for the religious facility. The Petitioner is now proposing to use Parcel J for overflow parking during the twice-yearly special religious facility services. A portion of Parcel G would be used to access the overflow parking area. The Amended Plan depicts Type C landscaping along the southern and western perimeters of Parcel J and Type A Landscaping along the northern perimeter.

The actual number of permanent parking spaces is not specified. The petition states a parking needs study will be submitted as part of the site development plan for the expanded uses. The TSR comments that based on the 1,050 seats in the main sanctuary, plus the additional, twice yearly service seats (600), 550 parking spaces are required, because the religious facility parking requirements are greater than the private school's. There appears to be adequate area on the Site for these 550 spaces, including a parking area expansion on Parcel J, according to the TSR.

D. Playfields and playground. Although not depicted on the Amended Plan, Messrs. Marlatt, Rubeling and Edwards testified that the school utilizes a portion of Parcel J for play/athletic fields. There is also a playground and play structure to the south of Parcel 29. The

use of Parcel J for athletic fields will continue, apparently, with the expansion. The playground and playground equipment structure to the north of the parking lot may remain, unless it is relocated to Parcel 30 to accommodate stormwater management.

9. Patrick Marlatt, a church incorporator, testified that there are currently 515 students enrolled in the private school and that the number of attendees will not increase. Eleven county school buses drop off and pick up students in accordance with well-established, internal traffic patterns that allow students to enter the school without walking across the parking lot. When the parking lot is used for outdoor play, the immediate access driveways are chained or coned off. All after-school activities will continue to be limited to school attendees.

10. Mr. Marlatt explained that on Christmas Eve and Easter Sunday, a children's Christmas Eve Mass is held at 4:00 p.m. in the school gymnasium, the same time the regular mass is held in the sanctuary. For these services, the church deploys a rigorous parking plan with attendants directing persons to parking spaces and certain other areas not designated as or marked as parking areas. Parcel J is used for additional overflow parking.

11. Architect Albert Rubeling testified that the proposed addition would be about 35'9" inches in height. The gymnasium could be used for a variety of activities. Up to 600 pullout seats could accommodate these activities, as well as the twice-yearly special services. The additional land on Parcel J could be used for ball fields. Mr. Rubeling further testified that the proposed architecture would match the existing church to enhance the monochromatic campus design.

12. Albert Edwards testified to his firm preparing the civil engineering and landscape

architect component of the project. He introduced into evidence Petitioner's Exhibit 4, the Amended Plan. The Amended Plan updates the appropriate church land ownership entities. The 40-foot strip of land marked as an SHA reservation on the prior approved conditional use plan was dedicated and so deducted from the total site acreage. The Parcel G access shown on the initial Conditional Use Plan submitted with the petition was denoted as a large triangle. On the Amended Plan, this access is limited to the immediate access area and is less than two percent of the lot area.<sup>2</sup> All play and ball fields would be located on Parcel J. As revised, the total Conditional Use Site is 18.91 acres, including the access portion of Parcel G. A dumpster is shown on Parcel 30, behind the gymnasium.

13. With respect to parking, Mr. Edwards testified that there are 1,050 seats in the church, fewer than what was approved in the prior conditional use, and that 362 spaces are provided onsite, twelve more than required.

14. In Mr. Edwards' opinion, from a design standpoint the existing access driveways will continue to provide safe access. Because the MD 108 access at Guilford Road is signalized, there is no SHA sight distance requirement, which is 425 feet. However, the county Design Manual requires a signalized access to meet certain Design Manual requirements, which it does. Referring to Petitioner's Exhibit 5, he testified that there is a 425' sight distance and stopping sight distance for Ten Oaks Road, which meets AASHTO standards.<sup>3</sup>

---

<sup>2</sup> As the TSR comments, Zoning Regulations Section 105.F.3.c limits the use of a preservation parcel that can be used for Conditional Use purposes to two percent of the lot area.

<sup>3</sup> AASHTO refers to the American Association of State Highway and Transportation Officials, which publishes "A Policy on Geometric Design of Highways and Streets," known as the Green Book. The Green Book recommends safe and efficient practices for the design of roadways.

15. With respect to compliance with the general criteria for conditional uses, Mr. Edwards testified that proposed changes are appropriate. No increase in student attendance is proposed. The overall intensity is appropriate, in Mr. Edwards' opinion, because the uses will be set back from the adjoining preservation parcel. Referring to Petitioners Exhibit 8, Mr. Edwards testified that the uses are well separated from the residences to the west by the large preservation parcel, which will be reforested. The nearest house (under construction) is about 740 feet from the nearest current paved surface. The closest property lot line on the west side of the preservation parcel is 490 feet. Even with the improvements on Parcel J and the requested reduced setback, the buffer will be more than adequate.

16. With the proposed enlargements, the lot coverage is 2.33 acres, or 12.37 percent, which is less than the 25 percent maximum building coverage (4.73 acres.), Mr. Edwards explained. As for parking, the 1,050-seat religious facility requires 350 seats and 362 are provided, including 21 accessible spaces. Additional school parking may be provided on Parcels 29 and 30.

17. Mr. Edwards further testified that all residential properties would be buffered from outdoor play areas by distance and additional landscaping. Based on a Site size of 18.91 acres and a 515 maximum student enrollment, there would be 26 students per acre. The existing playground would stay until the new parking requires stormwater management, in which case the playground and structures would be located outside the conditional use area. In his opinion, the existing play structure need not meet the 30-foot setback from Parcel 29 because all parcels comprising the campus will be consolidated during the site development

plan process.

18. Mark Keeley, a transportation planner, testified to examining traffic conditions, including a speed study, a sight distance analysis and a traffic impact study relating to the Ten Oaks Road and MD 108 driveways. At MD 108 and Guilford Road, the SHA approved access would have met the appropriate stopping sight distance requirements (at 40 MPH, the stopping sight distance along MD 108 is 302 feet, and this is exceeded). The level of service (LOS) for this intersection meets all adequate public facilities ordinance requirements. The Ten Oaks Road intersections also meet all sight and stopping distance requirements. These distances are depicted in Petitioner's Exhibit 5. Additionally, Ten Oaks Road was widened to five lanes since the last conditional use petition was approved, including turning lanes for the church and commercial uses.

#### **CONCLUSIONS OF LAW**

Based upon the foregoing Findings of Fact, the Hearing Examiner concludes as follows:

##### **I. General Criteria for Conditional Uses (Section 131.B)**

**A. Harmony with the General Plan.** Section 131.B.1 requires me to evaluate whether the proposed enlargement of an approved conditional use plan will be in harmony with the land uses and policies indicated in the Howard County General Plan for the district based on in which it is located. In making this evaluation, I am required to consider:

**a. The nature and intensity of the use, the size of the site in relation to the use, and the location of the site with respect to streets giving access to the site; and**

**b. If a conditional use is combined with other conditional uses or permitted uses on a site, whether the overall intensity and scale of uses on the site is appropriate given the adequacy of proposed buffers and setbacks.**

General Plan Policies. The General Plan designates the area as a Residential land use. The established presence of the religious facility and private school in the community is part of the area's character. Additionally, The General Plan encourages revitalization and redevelopment of traditional communities, including the expansion of public facilities such as churches in order to provide gathering places and "community focal points" (pg. 176).

The Nature and Intensity of the Use. Although the intensity of the use would increase with the addition, new parking spaces and play areas, the student body will not increase, nor will routine religious facility functions. The addition and parking will not change the nature of the religious and private school uses. This intensity of proposed expanded uses is not atypical of combined religious facility and private school uses.

The size of the site in relation to the use. The 18.91-acre Site adequately supports the moderate expansion in intensity of use, even with the reduced setbacks permitted, because open areas will be maintained and the uses adequately buffered, as discussed below.

The location of the site with respect to streets giving access to the site. MD 108 will continue as the main access to the Site. There are also secondary access points from MD 108 and Ten Oaks Road. All access driveways are located on Major Collectors.

The appropriateness of the conditional use in combination with a permitted use on the site. The proposed enlargement of the private school, religious facility, parking and playing

fields/play areas will be combined with previously approved conditional uses, a religious facility and a private academic school, which are now permitted uses.

**B. Adverse Effect**

Unlike Section 131.B.1, which concerns the proposed use's harmony or compatibility with the General Plan, compatibility with the neighborhood is measured under Section 131.B.2's four "adverse effect" criteria: (a) physical conditions; (b) structures and landscaping; (c) parking areas and loading, and; (d) access.

Any assessment of a proposed conditional use under these criteria recognizes the potential for adverse impact from virtually every human activity. Zoning recognizes this fact and, when concerned with conditional uses, accepts some level of such impact in light of the beneficial purposes the zoning body has determined to be inherent in the use. Thus, the question in the matter before the Hearing Examiner is not whether the proposed use would have adverse effects in an R-20 zoning district. The proper question is whether there are facts and circumstances showing that the particular use proposed at the particular location would have any adverse effects above and beyond those inherently associated with such a special exception (conditional) use irrespective of its location within the zone. *People's Counsel for Baltimore County v. Loyola College in Maryland*, 406 Md. 54, 956 A.2d 166 (2008); *Schultz v. Pritts*, 291 Md. 1, 432 A.2d 1319 (1981); *Mossburg v. Montgomery County*, 107 Md. App. 1, 666 A.2d 1253 (1995).

For the reasons stated below, I conclude the Petitioner has met its burden under Section 131.B.2 of the Zoning Regulations to establish this proposed enlargements will not have adverse effects on vicinal properties beyond those ordinarily associated with an expansion of a religious facility and private academic school.

**a. Physical Conditions. Whether the impact of adverse effects such as noise, dust, fumes, odors, lighting, vibrations, hazards or other physical conditions will be greater at the subject site than it would generally be elsewhere in the zone or applicable other zones.**

The uses have operated on the site for many years. They will be conducted predominately indoors. Outdoor activities will include use of the playground and athletic fields and summer activities. None of the uses will generate an inordinate amount of noise. All parking lighting must comply with county regulations. The lighting on the addition will be limited to functional lighting. The uses of Parcel G for access and Parcel J for parking and playing fields will be well buffered from the residential lots to the west by the large, Department of Recreation and Parks-owned Preservation Parcel D and the landscaping shown on the Amended Plan.

As noted above, however, the Amended Plan does not depict the location of the athletic fields on Parcel J, nor was this use approved through a prior conditional use petition, as the TSR notes. This is also true of the play area/structure north of the parking lot. Subject to the condition that these areas and the play structure is depicted on the Site Development Plan, the Hearing Examiner concludes that any inherent operational adverse effects resulting from the

proposed conditional use will not be greater at the subject site than elsewhere in the zone or applicable other zones, in accordance with Section 131.B.2.a.

**b. Structures and Landscaping.** The location, nature and height of structures, walls and fences, and the nature and extent of the landscaping on the site are such that the use will not hinder or discourage the development and use of adjacent land and structures more at the subject site than it would generally in the zone or applicable other zones.

The proposed 35'9" structure is less than the 40-foot maximum permitted height for principal structures. There is substantial buffering to the west and south and landscaping proposed along the northern, western and southern perimeters of Parcel J. There is no evidence that the enlargement would hinder the northern and eastern commercial uses.

Subject to all conditions of approval, the petition accords with Section 131.B.2.b.

**c. Parking and Loading.** Parking areas will be of adequate size for the particular use. Parking areas, loading areas, driveways and refuse areas will be properly located and screened from public roads and residential uses to minimize adverse impacts on adjacent properties.

The TSR commented on the proposed parking at length, explaining that the total number of required parking spaces will be determined through a parking needs study submitted with the Site Development Plan. The currently approved number of parking spaces is adequate for the religious facility and private school uses, as there is no increase in seats or student numbers. Additionally, the TSR notes there is adequate room on the Site for as many as 550 parking spaces. The proposed overflow parking lot enlargement in the western portion of the Site on Parcel J will be buffered by the landscaping depicted on the Amended Plan. No loading area is proposed and any dumpster would be located on the POR-zoned Parcel 30.

Additionally, the use of Parcel G, a Preservation Parcel, is limited by Zoning Regulations Section 105.F.3.c to two percent of the lot area. Although the exact square footage of the access driveway on Parcel G is unknown, it is clearly less than two percent. The petition accords with Section 131.B.2.c.

**d. Access. The ingress and egress drives will provide safe access with adequate sight distance, based on actual conditions, and with adequate acceleration and deceleration lanes where appropriate.**

All entrances were approved previously and will not be modified as part of the enlarged Conditional Use. The petition accords with Section 131.B.2.d.

## **II. Specific Criteria for Structures Used Primarily for Religious Activities (Section 131.N.39)**

**a. Lot coverage shall not exceed 25 percent of lot area.**

With the proposed expansion, the building coverage on the 18.91-acre Site is about 2.33 acres and the maximum permitted is 4.73 acres. The petition accords with Section 131.N.39.a.

**b. Structures used primarily for religious activities may be erected to a greater height than permitted in the district in which it is located, provided that the front, side and rear setbacks shall be increased one foot for each foot by which such structure exceeds the height limitation.**

Section 131.N.39.b does not apply because the petition does not propose any structure higher than permitted (40 feet).

**c. The Hearing Authority may approve parking facilities which are accessory to a religious facility, and are located on a separate lot, but do not meet the location requirements of subsection 133.B.4.D of the parking regulations by being separated from the religious facility by a public street, if the Hearing Authority finds that the accessory parking facility complies with the following criteria:**

**(1) The accessory parking facility is not separated from the lot containing the principal use by an arterial highway of any category.**

(2) A pedestrian street crossing connecting the accessory parking facility lot to the principal use lot is provided and is made clearly noticeable to drivers by means of both pavement marking and signs

(3) The pedestrian street crossing is safe, based upon such factors as, but not limited to: traffic volume at the times(s) of the use of the accessory parking facility; practical traffic speeds; sight distance; length of the crossing; and adequate markings and signage.

(4) The entire pedestrian pathway from the accessory parking facility to the principal religious facility is a durable, paved, no-step path.

Section 131.N.39.c does not apply because the petition does not propose parking facilities on a lot separated by a public street.

**III. Specific Criteria for Structures Used Primarily for Schools, Colleges, Universities – Private Academic (Section 131.N.48)**

a. The maximum density permitted is 60 pupils per acre for lots less than three acres, and 100 pupils per acre for lots three acres or greater.

Section 131.N.48.a does not apply because the petition does not propose an increase in the student body. However, based on the current 515-student body, the density is about 26 students per acre, in accordance with Section 131.n.48.a.

b. In addition to meeting the area requirements of Section 131.N.54.a, schools with residence accommodations shall provide an additional 500 square feet of lot area per site resident. Residents shall include students, staff members, caretakers and their families who reside on the site.

This section is inapplicable as no residential accommodations are proposed.

c. A private school may be erected to a greater height than permitted in the respective district, provided that no structure is more than three stories in height and the front, side and rear setbacks shall be increased two feet for each foot by which such structure exceeds the height limitation.

This section is inapplicable, as no building will be erected to a greater height than the 40 feet permitted in the RR district.

**d. Sufficient off-street school bus loading areas shall be provided if bus service is provided for students.**

Eleven county school buses will drop off and pick up students in accordance with well-established, internal traffic patterns that allow students to enter the school without walking across the parking lot. The petition accords with Section 131.n.48.d.

**e. Outdoor uses will be located and designed to shield residential property from noise or nuisance. Play areas, athletic fields and similar uses shall be buffered from residential properties by fencing, landscaping, adequate distance or other appropriate means.**

The play fields on Parcel J and the play area north of the parking lot will be well separated from surrounding properties. Parcel J is depicted as having a type C landscape buffer along the western and southern perimeters and a Type A landscape buffer along the northern perimeter. Parcel D is an unbuildable preservation parcel. The petition accords with Section 131.n.48.e.

**f. Buildings, parking areas and outdoor activity areas will be at least 50 feet from adjoining residentially zoned properties other than a public road right-of-way. The Hearing Authority may reduce this setback to no less than 20 feet or the minimum setback required by the zoning district, whichever is greater if:**

- (1) The adjoining land is committed to a long term institutional or open space use that provides an equivalent or better buffer for vicinal residential development; or**
- (2) The petition includes detailed plans for screening, consisting of a combination of a solid fence or wall and landscaping, or an equivalent combination, that presents an attractive and effective buffer for neighboring properties.**

The Amended Plan depicts a parking area 30 feet from the adjoining residentially zoned property, which is the minimum reduced setback the Hearing Authority may approve in the RR district. This reduced setback would also apply to the athletic fields on Parcel J. In support of the reduced setback, the Petitioner is proposing to landscape the northern, western and southern perimeters of Parcel J. Additionally, Parcel D is an open space parcel and Parcel G is a preservation Parcel. The petition accords with Section 131.n.48.f.

**g. At least 20 percent of the area within the building envelope will be green space, not used for buildings, parking area or driveways. The building envelope is formed by the required structure setbacks from property lines and public street rights-of-way.**

Because the amount of parking to be located on Parcel J is unknown, the actual percentage of green space cannot be precisely determined. However, the amount of green space will be substantially more than 20 percent. The petition accords with Section 131.n.48.g.

**h. The site has frontage on and direct access to a collector or arterial road designated in the General Plan, except that expansions of a conditional use that was approved prior to the effective date of Council Bill No. 11-2001 are permitted.**

The Property fronts on and has direct access to MD 108 and Ten Oaks Road, which are Major Collectors, in compliance with Section 131.n.48.h.

**ORDER**

Based upon the foregoing, it is this 14<sup>th</sup> day of June 2012, by the Howard County Board of Appeals Hearing Examiner, **ORDERED:**

That the request of St. Louis Roman Catholic Church, Inc. to enlarge a Conditional Use site of an existing religious facility and private school, for a building addition containing a gymnasium and offices, and including a potentially enlarged parking area and playfields/play areas and play structure in an RR-DEO (Rural Residential: Density Exchange Option) Zoning District is hereby **GRANTED**;

**Provided, however,** that:

1. The Conditional use shall apply only to the proposed enlargements and site revision to the existing facility as described in the Petition and as depicted on the Amended Plan and shall include the area of the athletic fields and play area/play structure, and not to any other activities, uses, or structures on the Property.
2. The Site Development Plan shall depict the location of the athletic fields/play area/play structure (if the play area and play structure remains on the Conditional Use Site).
3. The Petitioner shall comply with all applicable federal, state, and county laws and

**HOWARD COUNTY BOARD OF APPEALS**

**HEARING EXAMINER**

A handwritten signature in black ink, appearing to read "MICHELE L. LEFAIVRE", written over a horizontal line.

Michele L. LeFaivre

Date Mailed: \_\_\_\_\_

**Notice:** A person aggrieved by this decision may appeal it to the Howard County Board of Appeals within 30 days of the issuance of the decision. An appeal must be submitted to the Department of Planning and Zoning on a form provided by the Department. At the time the appeal petition is filed, the person filing the appeal must pay the appeal fees in accordance with the current schedule of fees. The appeal will be heard *de novo* by the Board. The person filing the appeal will bear the expense of providing notice and advertising the hearing.